

House File 2261 - Introduced

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BY JACOBSEN

A BILL FOR

1 An Act relating to a minor's ability to access obscene
2 material on a distributor's internet site or internet-based
3 application, and providing civil penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **235G.1 Definitions.**

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Disseminate*" means the same as defined in section 728.1.

5 2. "*Distributor*" means a person in this state who owns or
6 operates an internet site or internet-based application.

7 3. "*Minor*" means a person under the age of eighteen.

8 4. "*Obscene material*" means the same as defined in section
9 728.1.

10 5. "*Personal identification information*" means an unexpired
11 student identification card, a valid social security card,
12 an unexpired driver's license, an unexpired nonoperator's
13 identification card, an unexpired passport, a certified copy
14 of a birth certificate, or other valid, unexpired proof of
15 identity.

16 Sec. 2. NEW SECTION. **235G.2 Restriction on minor access to**
17 **internet sites and internet-based applications.**

18 A distributor shall not knowingly allow a minor to access the
19 distributor's internet site or internet-based application if
20 the distributor's internet site or internet-based application
21 contains obscene material.

22 Sec. 3. NEW SECTION. **235G.3 Civil remedy — attorney fees.**

23 1. Any person may institute a civil action for damages for a
24 violation of section 235G.2. The damages shall be five hundred
25 dollars for each violation of section 235G.2.

26 2. A court shall award a prevailing party in an action under
27 this section court costs and reasonable attorney fees.

28 Sec. 4. NEW SECTION. **235G.4 Affirmative defense.**

29 1. It is an affirmative defense to any claim or action under
30 section 235G.3 that the distributor required an individual
31 accessing its internet site or internet-based application to
32 provide to the distributor personal identification information
33 verifying the individual was age eighteen or older when
34 the individual accessed the internet site or internet-based
35 application.

1 2. It shall not be an affirmative defense to any claim
2 or action under section 235G.3 that a minor accessed the
3 distributor's internet site or internet-based application
4 from an accredited school, public library, community college,
5 college, or university.

EXPLANATION

7 The inclusion of this explanation does not constitute agreement with
8 the explanation's substance by the members of the general assembly.

9 This bill relates to a minor's ability to access obscene
10 material.

11 The bill provides that if a distributor's internet site
12 or internet-based application contains obscene material, the
13 distributor shall not knowingly allow a minor to access the
14 internet site or internet-based application. Any person may
15 institute a civil action for damages under this provision.
16 The bill provides that the damages for a violation of this
17 provision shall be \$500 for each violation, and the prevailing
18 party in the action shall recover court costs and reasonable
19 attorney fees.

20 The bill also provides an affirmative defense to any claim or
21 action under the bill that a distributor required an individual
22 accessing its internet site or internet-based application to
23 provide to the distributor personal identification information
24 verifying the individual was 18 years of age or older when
25 the individual accessed the internet site or internet-based
26 application. The bill provides that it shall not be an
27 affirmative defense to any claim or action under the bill
28 that a minor accessed the distributor's internet site or
29 internet-based application from an accredited school, public
30 library, community college, college, or university.

31 The bill provides definitions as follows: "disseminate"
32 means to transfer possession, with or without consideration;
33 "distributor" means a person in this state who owns or operates
34 an internet site or internet-based application; "minor" means
35 a person under the age of 18; "obscene material" means any

1 material depicting or describing the genitals, sex acts,
2 masturbation, excretory functions, or sadomasochistic abuse
3 which the average person, taking the material as a whole and
4 applying contemporary community standards with respect to what
5 is suitable material for minors, would find appeals to the
6 prurient interest and is patently offensive, and the material,
7 taken as a whole, lacks serious literary, scientific, political
8 or artistic value; and "personal identification information"
9 means an unexpired student identification card, a valid social
10 security card, an unexpired driver's license, an unexpired
11 nonoperator's identification card, an unexpired passport,
12 a certified copy of a birth certificate, or other valid,
13 unexpired proof of identity.